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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

February 13, 2004

AO-04-01

VIA FAX AND REGULAR MAIL

Dennis Johnson

Committee to Elect Joseph A. Pascarelli

48 Old Maple Street

Stoughton, MA 02072

Re: Fundraiser to Pay Medical Expenses

Dear Mr. Johnson:

This letter is in response to your request for an opinion regarding a fundraising dinner by the Pascarelli Committee to be held on February 21 to benefit a leukemia patient.

It is my understanding that the Committee has planned to raise money to offset medical expenses incurred by Nicole Levine, who has been diagnosed with acute myeloid leukemia stemming from a rare genetic disease. You have indicated that Mr. Pascarelli is particularly interested in helping Nicole because his sister died of the same disease when she was eighteen years old.

QUESTION

May the Pascarelli Committee donate the proceeds of its fundraising dinner to a fund created to offset medical expenses incurred by Nicole Levine as set forth above?

ANSWER

Yes. Such an expenditure by the Committee appears to be consistent with the campaign finance law and regulations.

M.G.L. c. 55, § 6 authorizes a local candidate committee to make any expenditure that enhances the candidate's political future, as long as the expenditure is not primarily for the candidate's or anyone else's personal use. Campaign finance regulations, at 970 CMR 2.05 and 2.06, provide additional guidance to candidates as to whether certain expenditures are consistent with Section 6. For example, these regulations set forth the criteria for gifts and charitable contributions by political committees.

The regulation governing gifts by political committee's, 970 CMR 2.06(3)(b)(2), states, in relevant part, that a committee may make a gift of a reasonable value if:

The political committee or candidate will receive publicity and foster political goodwill as a result of making the gift or contribution, if:

- a. the candidate or treasurer has no personal relationship with the individual or his family; and
- b. the gift is appropriate to the occasion which has prompted the gift; and
- c. making such a gift is a usual and customary practice of the political committee; and
- d. the gift would not be made but for the interest in it enhancing the political future of the candidate or principle for which the committee was organized.

A separate regulation specifically addressing charitable contributions by political committees, which is set forth at 970 CMR 2.06(3)(a), is similar to the gift regulation but it requires that such contributions be made to an entity which is subject to either M.G.L. c. 12, § 8(f), M.G.L. c. 67 or M.G.L. c. 180.

Though philanthropic in nature, an expenditure by the Committee to offset Nicole Levine's medical expenses does not fit squarely with either of these regulations. That does not mean, however, that such an expenditure would be prohibited. In fact, 970 CMR 2.06(3) states that the political committees other than statewide candidate committees "shall be permitted" to make any expenditure to enhance the political future of the candidate or principle for which the political committee was organized that is similar to the categories of expenditures specifically set forth in the regulations and not inconsistent with M.G.L. c. 55, the campaign finance regulations, or any other law.

As suggested, the type of fundraising dinner proposed, is similar to the gift and charitable contribution expenditures authorized by the campaign finance regulations, and it is likely that the Committee will receive publicity and foster goodwill as the result of its holding the event. In addition, such an event does not appear to be inconsistent with M.G.L. c. 55, 970 CMR or any other law. The nature of this charitable event, though not specifically addressed in the regulations, is not uncommon. It is also significant that the candidate and the treasurer have no personal relationship with Nicole Levine or her family.

Even though Nicole and her family will benefit from the proceeds of the event, the fundraiser does not seem to entail the type of personal use, i.e. abuse, of campaign funds that M.G.L. c. 55 seeks to prevent. In other words, this is not an instance where campaign funds are being inappropriately used to unjustly enrich a candidate or individual for goods or services that are incurred in the course of everyday. Rather, the Committee is seeking to use its resources to help reduce a family's unexpected medical expenses incurred as the result of their daughter's serious illness. Under the circumstances, the Pascarelli Committee's sponsorship of the fundraising dinner and contribution of the event proceeds to a fund established to offset Nicole's medical expenses would involve legitimate expenditures for a charitable purpose. See 970 CMR 2.06(3).

Because the Committee is raising the money at a fundraiser, the funds collected would be contributions to the Committee.¹ Therefore, as with any Committee fundraising event, the Committee: must disclose as receipts the gross proceeds of contributions, which are subject to the \$500 annual aggregate limit, received from individuals in conjunction with the February 21 event; may not accept any corporate contributions; and must disclose the resulting expenditure to the medical expense fund on the relevant campaign finance report.

This opinion is provided on the basis of representations in your letter and telephone conversations with OCPF staff, and is solely within the context of the campaign finance law.

Sincerely,
/s/
Bradley S. Balzer
Deputy Director

BSB:bp

¹ Donors may, of course, choose to donate directly to Nicole's medical expense fund in addition to, or in place of, contributions for the Committee's February 21 event. Similarly, while corporations may not contribute in connection with the Committee's event, there is nothing in the campaign finance law to prevent them from contributing directly to the medical expense fund.